

**REMARKS**

This is in response to the Official Action currently outstanding with regard to the above-identified application, which Official Action the Examiner has designated as being FINAL.

Claims 10 - 13 were pending at the time of the issuance of the currently outstanding Official Action.

By the foregoing Amendment, it is proposed that Claims 10 and 13 be amended so as to place them in condition for allowance, or at least in better form for Appeal, pursuant to 37 CFR 1.116. Applicants do not propose the cancellation or the addition of any claims. Consequently, in the event that the foregoing Amendment is granted entry by the Examiner, Claims 10-13 (as amended) will constitute the claims under active prosecution in this application.

The claims of this application and their current status are set forth above in accordance with the Rules.

More particularly, in the currently outstanding Official Action the Examiner has:

1. Acknowledged Applicants' claim for foreign priority under 35 USC 119(a)-(d) or (f), and has confirmed the receipt of the required copies of the priority documents by the United States Patent and Trademark Office;
2. Indicated that the drawings as filed on 7 June 2004 are accepted;
3. Indicated that Claims 10 - 12 are allowed; and

4. Maintained his rejection of Claim 13 under 35 USC 112, but indicated that Claim 13 would be allowable if rewritten so as to overcome his rejection under 35 USC 112 and so as to include all of the limitations of its base claim and any intervening claims.

Further comment in these Remarks regarding items 1 -3 is not deemed to be required.

With respect to item 4, Applicants respectfully note that it is not possible to rewrite Claim 13 so as to avoid the Examiner's rejection under 35 USC 112 and also in independent form including all of the limitations of its base claim and any intervening claims. The reason for this is that the Examiner has refused to allow the Applicants to state the applicable limitations in those cases wherein  $N = 1$  and  $N \geq 2$  in the same claim despite Applicants' argument that such a claim would be proper. Accordingly, by the foregoing Amendment Applicants propose a rewritten version of Claim 13 that includes the limitations of Claim 10 to the extent appropriate to the case wherein  $N = 1$  and otherwise wherein the limitations have been rephrased to fit the case wherein  $N = 1$ . Applicants respectfully submit that this rewritten version of Claim 13 is in compliance with the Examiner's indication that Claim 13 would be allowable if rewritten so as to avoid his rejections under 35 USC 112 and also so as to be phrased in independent form including all of the limitations of its base claim and any intervening claim (to the extent that the latter was possible in the course of complying with the former). Applicants therefore respectfully submit that Claim 13 as hereinabove amended complies with the Examiner's stated requirements for its allowance such that it should now be granted entry and be formally allowed.

The remainder of the foregoing amendment is intended to correct certain typographical errors in the designations "p3" and "p5" in the claims.

Specifically, it will be noted that at page 33, line 19, to page 34, line 3, and in Figure 12 it is indicated that in a manner analogous to that shown with respect to the quantity "t4" (see page 15, second paragraph), the quantity "p4" is an optical thickness of the light transmitting body at which the objective lens is designed ("set") so as to provide minimum spherical aberration. The wording of the claims is correctly matched to the reference sign "p4" as explained in the specification.

Unfortunately, however, the current claims inadvertently utilize the reference signs "t4" and "t5" instead of the reference signs "p3", "p4" and "p5" in Claims 10 and 13.

More particularly, in Claim 10 the reference sign "t4" should read "p3". This is clear from the present specification and the wording of the claim itself. Hence, at page 34, line 17 to page 35, line 1, it clearly appears that "p3" is the distance from the surface of the recording medium to a mid-position between the first recording layer and the N-th recording layer in a recording medium having N recording layers.

In Claim 13, on the other hand, it is clear from the words of the claim and the specification at page 36, lines 4-6, that the optical thickness from the surface of the recording medium on the objective lens side to the single recording layer is defined to be "p5". Hence, the optical thickness of the recording layer in Claim 13 should be designated as "p5" rather than "t5". Similarly, as mentioned above, the quantity "p4" is an optical thickness of the light transmitting body at which the objective lens is designed ("set") so as to provide minimum spherical aberration. Hence, since the purpose is to minimize aberration at the single recording layer in Claim 13, "p4" is equivalent to "p5", rather than "t4" being equal to "t5".

Applicants respectfully request that the foregoing clarifying amendments be entered by the Examiner so as to conform the reference signs used in the Claims (both as currently allowed and as currently rejected) to the wording thereof and the associated specification.

In view of the foregoing amendment and remarks, Applicants respectfully submit that Claims 10-13 of this application as hereinabove amended now are in condition for allowance and should be granted entry into this application in response to this communication. Reconsideration and a decision so holding are respectfully requested.

Applicants also believe that additional fees beyond those submitted herewith are not required in connection with the consideration of this response to the currently outstanding Official Action. However, if for any reason a fee is required, a fee paid is inadequate or credit is owed for any excess fee paid, you are hereby authorized and requested to charge and/or credit Deposit Account No. **04-1105**, as necessary, for the correct payment of all fees which may be due in connection with the filing and consideration of this communication.

Respectfully submitted,

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FIG. 9

